

**Request for Reconsideration:**

Applicants are amending claims 1-9 and adding new claims 67-69. Applicants respectfully submit that these amendments do not add new matter and are supported by the specification, as filed. See, e.g., Appl'n, Paras. [0100-0102]; **Figs. 18A-19**. In addition, claims 23-25 and 27-33 are withdrawn as directed to a non-elected invention. Accordingly, claims 1-12 and 67-69 are under consideration for prosecution on the merits, of which claim 1 is independent. In accordance with the RCE submitted herewith, Applicants respectfully request that the Examiner enter these amendments and reconsider the above-captioned patent application in view of the foregoing amendments and the following remarks.

**Remarks:**

1. Rejections.

Claims 1-3, 5-8, and 12 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Patent Application Publication No. US 2005/0192604 A1 to Carson et al. ("Carson"), in view of Patent Application Publication No. US 2002/0161383 A1 to Akin et al. ("Akin"), and further in view of Patent No. US 5,456,714 A to Owen. Claims 4 and 9 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Carson, in view of Akin and Owen, and further in view of Patent Application Publication No. WO 00/24339 to Berreklouw or Patent No. U.S. 6,554,848 B2 to Boylan et al. Claims 10 and 11 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Carson, in view of one of Akin and Owen, and further in view of Patent No. U.S. 6,814,750 B2 to Kavteladze et al. Applicants respectfully traverse..

2. Independent Claim 1.

As noted above, the Office Action rejects independent claim 1 as allegedly rendered obvious by Carson in view of Akin, and further in view of Owen. In order to establish a prima facie case of obviousness, however, the references cited by the Office Action or the knowledge generally available to those of ordinary skill in the art must disclose or suggest all of the claim limitations. MPEP 2142. Nevertheless, Applicants respectfully submit that the Office Action fails to establish a prima facie case of obviousness because the cited references do not disclose or suggest all of the limitations of independent claim 1, as amended.

Claim 1, as amended, describes:

a tissue clamp positioned around said channel, said tissue clamp comprising: a clamping portion extending from said base portion, said clamping portion configured to elastically move from a clamped position substantially corresponding to a shape of said saddle to an unclamped position not corresponding to the shape of said saddle; and a connection portion configured to connect said clamping portion

to said channel and limit the axial movement of said clamping portion in the unclamped position relative to said saddle.

The Office Action states that Owen's clamping ring 4 corresponds to the claimed tissue clamp and that clamping ring 4 has an unclamped position not corresponding to the shape of flange 2, and a clamped position that is deformed to the shape of flange 2 within a blood vessel. Office Action, Page 4, Line 19-Page 5, Line 2 (citing Owen, **Figs. 5-6**). The Office Action contends that it would have been obvious in view of Owen to make the tissue clamp of Carson elastically deformable. Applicants respectfully traverse.

Owen depicts clamping rings 4 arranged to axially slide on tube 1, so that holes 5 of locking ring 4 align with and receive corresponding spikes 3 protruding from a flange disposed within a blood vessel. Owen, Col. 2, Lines 58-63; **Figs. 4-6**. Moreover, Carson depicts securing component 16 that is slid over extension 32 of securing component 14. Carson, Para. [0071]; **Figs. 1A and 3A-B**. Accordingly, each of Owen and Carson depicts a tissue clamp not connected to the conduit to limit the axial movement of the clamp in the unclamped position relative to the saddle. Moreover, Akin does not supply this missing limitation. Thus, Owen, Carson, and Akin, whether taken alone or in combination, fail to disclose or suggest a tissue clamp having a connection portion that is connected to the channel and "limit[s] the axial movement of said clamping portion in the unclamped position relative to said saddle." Therefore, at least for this reason, Applicants respectfully request that the Examiner withdraw the obviousness rejection of independent claim 1, as amended.

Moreover, the Office Action maintains the inconsistent positions that Carson's conduit 18 has an elliptical cross-section because it is at an angle relative to the vessel, but that it would have been obvious to modify Carson's channel at a 90 degree configuration relative to the saddle in view of Akin. The modification of Carson in view of Akin proposed by the Office

Action would eliminate the angle providing the purported elliptical cross-section, and, thus, the modification would cause Carson's conduit 18 to have a circular cross-section along its entire length. In addition, the Office Action asserts that because of the curvature of the saddle, the aperture would never be circular. Office Action, Page 3, Lines 22-23. Nevertheless, claim 1 does not claim the shape of the aperture, but the cross-section of the conduit, which is circular along the entire length of Akin's channel portions 98, 102 that are perpendicular relative to the longitudinal axes of saddles 96, 104. Akin, Para. [0096]; **Figs. 11A-B**. Further, Carson's securing component 14 connects to securing component 16 at extension 32, which clearly has a circular cross-section and is not at an end of conduit 18. Carson, **Figs. 2B-3A**. Thus, Carson in view of Akin fails to disclose or suggest both "a channel extending from a first end to a second end along a second direction substantially perpendicular to the first direction" and a "first end [of said channel] having a substantially elliptical cross-section in the first direction connected to said saddle," as set forth in independent claim 1. Therefore, at least for this additional reason, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claim 1.

3. Dependent Claims 2-12.

Claims 2-12 depend from independent claim 1, as amended. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Therefore, at least for this reason, and in view of the foregoing remarks with regard to amended claim 1, Applicants respectfully request that the Examiner withdraw the obviousness rejections of dependent claims 2-12.

**Conclusion:**

Applicants maintain that the above-captioned patent application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicants' representative, we would welcome the opportunity to do so.

Applicants believe that only the fees in the amount **\$470.00**, for a one-month extension of time to respond (Fee Code 2251) and the RCE (Fee Code 2801), are due as a result of the submission of this responsive amendment. Nevertheless, in the event of any variance between the fees determined by Applicants and the fees determined by the PTO, please charge or credit any such variance to the undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,  
BAKER BOTTS, L.L.P.

Date: **December 28, 2009**

By: /William S. Foster, Jr./  
William S. Foster, Jr.  
Registration No. 51,695

Baker Botts, L.L.P.  
The Warner  
1299 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2400  
Tel.: (202) 639-7700  
Fax: (202) 639-7890

WSF/